

SENATE BILL 1572

By Bell

AN ACT to amend Tennessee Code Annotated, Title 4,
Chapter 5, relative to the Uniform Administrative
Procedures Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-5-102, is amended by deleting subdivision (10) and substituting instead the following:

(10) "Policy" means any statement or any document prepared or issued by any agency pursuant to its delegated authority that merely defines, interprets, or explains the meaning of a statute or a rule. "Policy" also means any statement or document concerning only the internal management of state government that does not affect private rights, privileges, or procedures available to the public. For purposes of this subdivision (10), "internal management" means the administration of an agency's internal operations for the purpose of facilitating operational effectiveness and efficiency;

SECTION 2. Tennessee Code Annotated, Section 4-5-102, is further amended by deleting subdivision (12) and substituting instead the following:

(12) "Rule" means any agency regulation, standard, statement, or document of general applicability that is not a policy as defined in subdivision (10) that:

(A) Describes the procedure or practice requirements of an agency; or

(B) Implements, prescribes, or interprets an enactment of the general

assembly or congress or a regulation adopted by a federal agency. "Rule"

includes the establishment of a fee and the amendment or repeal of a prior rule.

"Rule" does not include:

(i) Declaratory orders issued pursuant to § 4-5-223;

- (ii) Intra-agency memoranda;
- (iii) General policy statements that are substantially repetitious of existing law;
- (iv) Agency statements that:
 - (a) Relate to the use of the highways and are made known to the public by means of signs or signals; or
 - (b) Relate to the curriculum of individual state supported institutions of postsecondary education or to the admission or graduation of students of such individual institutions but not to the discipline or housing of students;
- (v) Rate filings pursuant to title 56, chapters 5 and 6; or
- (vi) Statements concerning inmates of a correctional or detention facility; and

SECTION 3. Tennessee Code Annotated, Section 4-5-211, is amended by designating the current language as subsection (a) and adding the following as a new subsection (b):

(b)

(1) No policy shall be enacted, adopted, or enforced by an agency until the policy has been filed with the office of the attorney general and reporter. The office of the attorney general and reporter shall review all proposed policies for the applicability of any exception listed in § 4-5-102(12)(B)(i)-(vi). Within fifteen (15) days of receipt of a proposed policy, the attorney general and reporter shall review the proposed policy and determine whether it meets the definition of a policy as defined in § 4-5-102(10) or one of the exceptions to a rule listed in § 4-5-102(12)(B)(i)-(vi), and send a written copy of the proposed policy and notification of its determination to the agency, the chair of the government operations committee of the house of representatives, and the chair of the government operations committee of the senate.

(2) No agency created by statute and subject to review under title 4, chapter 29 shall promulgate rules or implement policies that infringe on an agency member's freedom of speech in violation of the constitution of Tennessee, Article I, § 19, or the First Amendment of the United States Constitution.

(3) An agency's appointing authority shall have sole power to remove a member from a board, commission, council, committee, authority, task force, or other similar multi-member agency created by statute and subject to review under title 4, chapter 29.

(4) This subsection shall apply to all policies defined for all of chapter 5 that are proposed or developed by agencies on or after July 1, 2018.

SECTION 4. This act shall take effect July 1, 2018, the public welfare requiring it.